

PROPOSED ADMINISTRATIVE SETTLEMENT
UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT

AGENCY: U.S. Environmental Protection Agency.

ACTION: Request for Public Comment.

SUMMARY: The U.S. Environmental Protection Agency is proposing to enter into a de minimis settlement pursuant to Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9622(g)(4). This proposed settlement is intended to resolve the liabilities under CERCLA of nine (9) de minimis parties for response costs incurred and to be incurred at the Malvern TCE Superfund Site, East Whiteland and Charlestown Townships, Chester County, Pennsylvania.

DATES: Comments must be provided within thirty (30) days from publication.

ADDRESS: Comments should be addressed to Suzanne Canning, Docket Clerk, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, and should refer to the Malvern TCE Superfund Site, East Whiteland Township, Chester County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Joan A. Johnson (3RC41),
215/814-2619, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia,
Pennsylvania 19103-2029.

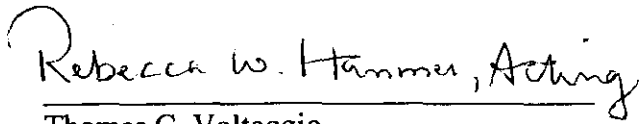
SUPPLEMENTARY INFORMATION: Notice of de minimis settlement: In accordance with Section 122(i)(1) of CERCLA, 42 U.S.C. § 122(i)(1), notice is hereby given of a proposed administrative settlement concerning the Malvern TCE Superfund Site, in East Whiteland Chester County, Pennsylvania. The administrative settlement is subject to review by the public pursuant to this Notice. The proposed agreement has been reviewed and approved by the United States Department of Justice. The following de minimis parties have executed signature pages, consenting to participate in this settlement: BAE Systems (on behalf of American Electronics Laboratories), Boekel Industries, AVX Corporation (on behalf of Elco Corporation), Irwins Tinware (on behalf of Erwins Crafts), K-D Tool Manufacturing Corporation, Maida Development Company, McHugh Railroad Maintenance Equipment Company, Photofabrication Chemical & Equipment Company, Inc., and R & E Martin.

The nine (9) settling parties collectively have agreed to pay \$645,749 to the Hazardous Substances Trust Fund subject to the contingency that EPA may elect not to complete the settlement if comments received from the public during this comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Monies collected from the de minimis parties will be applied towards past and future response costs incurred by EPA or PRPs performing work at or in connection with the Site. The settlement includes a 60% premium to cover the risk of cost overruns or increased costs to address conditions at the Site previously unknown to EPA but discovered after the effective date of the Consent Order. The settlement also includes a reservation of rights by EPA, pursuant to which EPA reserves its rights to seek recovery from the settling de minimis parties of response costs incurred by EPA in connection with the Site to the extent such costs exceed \$25 million.

EPA is entering into this agreement under the authority of Section 122(g) of CERCLA,

42 U.S.C. § 9622(g). Section 122(g) authorizes early settlements with de minimis parties to allow them to resolve their liabilities at Superfund Sites without incurring substantial transaction costs. Under this authority, EPA proposes to settle with potentially responsible parties in connection with the Malvern TCE Superfund Site, each of whom is responsible for .75 percent or less of the volume of hazardous substance sent to the Site. As part of this de minimis settlement, EPA will grant the nine settling de minimis parties a covenant not to sue or take administrative action against any of the nine settling PRPs for reimbursement of response costs or injunctive relief pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, or for injunctive relief pursuant to Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973, with regard to the Site. EPA issued this settlement offer to the de minimis parties on May 29, 2001.

The Environmental Protection Agency will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice. A copy of the proposed Administrative Order on Consent can be obtained from Joan A. Johnson, U.S. Environmental Protection Agency, Region III, Office of Regional Counsel, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, or by contacting Joan A. Johnson at (215) 814-2619.


Thomas C. Voltaggio
Acting Regional Administrator
U.S. Environmental Protection Agency
Region III

3/12/02
Date